

**REMARKS**

Claims 1, 4-7 and 9-20 are pending in the present application. Reconsideration in view of the following remarks is kindly requested.

**Claim Rejections under 35 U.S.C. § 102**

Claims 1, 7, 9-15 and 18-20 stand rejected under 35 USC §102(b) as anticipated by Jayapalan (US 5,553,019). The Applicant respectfully traverses this rejection as detailed below.

Independent claim 1 is directed to a method of communicating between a wireless unit and a packet data network reciting, *inter alia*, “**sending a setup packet as secondary traffic over the established circuit switched link** between said wireless unit and the base station to establish a data session between said wireless unit and said packet data network; and **sending data packets for said data session over a packet switched link** between said wireless unit and said packet data network on a wireless resource that has been temporarily allocated in response to a request for a wireless resource to send data packets for said data session. Independent 15 also recites “**sending a setup packet as secondary traffic over the established circuit switched link.**” Claims 2-6, 9-14 and 18-20 depend from independent claims 1 and 15 and therefore also include the above-emphasized features.

According to example embodiments of the present invention, the circuit switched link is used for transmitting a setup packet between a base station and a mobile station to reduce the delay associated with setting up a data session over a packet-switched link, thereby improving data rate between a wireless communication system and a packet data network.<sup>1</sup> Accordingly, round trip time (RTT) associated with setting up a data session may be reduced to improve overall system data rate.<sup>2</sup>

Jayapalan is directed to a method and apparatus for a cellular radiotelephone system including a base station and mobile data unit both operable for establishing either a circuit switched data call connection or a single-user connectionless packet data traffic channel via a radio channel and communicating packet data over the established radio channel.<sup>3</sup> Jayapalan on page 4, lines 40-50 states “when a circuit-switched data connection has been established, BSC 35 routes the received

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<sup>1</sup> Applicant’s specification at least at page 8, line 20 to page 9, line 1.

<sup>2</sup> Applicant’s specification at least at page 9, lines 2-3.

<sup>3</sup> Jayapalan, Abstract.

data packets along the established circuit link to PSTN 44 via inter working function (IWF) 40 and MSC 42,” and “[o]n the other hand, if a data packet-switched transfer is being made, the data packet will be routed to the data network 38 via MD-IS 36 as in the CDPD system of FIG. 1.”

However, Applicant respectfully submits that Jayapalan does not disclose, teach or suggest setup packets, much less sending a setup packet as secondary traffic. Accordingly, Applicant respectfully submits that Jayapalan at least fails to disclose the above-emphasized features of claims 1 and 15, i.e., “*sending a setup packet as secondary traffic over the established circuit switched link.*”

In response to the above-argument, which was previously presented in the Request for Reconsideration filed October 12, 2005, the Examiner asserts the following.

Jayapalan teaches the separating of voice and data in hybrid data channel after establishing a connection between the mobile and base stations. The first traffic block is from block 5 to 44 in Fig. 2 and the second traffic is from blocks 5 to 38 in Fig. 4. Therefore, Jayapalan teaches the step of setup packet as secondary traffic as the claimed.

However, Applicant respectfully submits that while Jayapalan, as asserted by the Examiner’s statement quoted above, may disclose a hybrid data channel, Jayapalan does not disclose teach or suggest “*sending a setup packet as secondary traffic over the established circuit switched link.*” as recited in claims 1 and 15. Jayapalan *merely* discloses that a hybrid data channel may be used to transfer packet data. However, Applicants can find no teaching whatsoever of setup packets, let alone a teaching that setup packets are treated differently from other data packets, in Jayapalan.

Therefore, Applicant respectfully requests that the rejection of claims 1, 7, 9-15 and 18-20 under 35 U.S.C. §102(b) be withdrawn.

### **Claim Rejections under 35 U.S.C. § 103**

Claims 4-6, 16 and 17 stand rejected under 35 USC §103(a) as unpatentable over Jayapalan (US 5,553,019) in view of Forslow (US 6,608,832). The Applicant respectfully traverses this rejection as detailed below.

Claims 4-6, 16 and 17 depend from independent claims 1 and 15 and therefore, are allowable for at least the same reasons as independent claims 1 and 15 described above.

Therefore, Applicant respectfully requests that the rejections of claims 4, 6, 16 and 17 under 35 U.S.C. §103(a) be withdrawn.

### CONCLUSION

Accordingly, in view of the above remarks, reconsideration of the rejections and allowance of each of claims 1, 4-7 and 9-20 is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is kindly requested to contact Scott A. Elchert at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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